

# 1978 Iowa Criminal Code Revision Process Overview

NOTE: This report was prepared by the Division of Criminal and Juvenile Justice Planning in 1998. It has not previously been distributed except as a meeting handout to assist sentencing studies underway at that time.



## **1978 Iowa Criminal Code Revision**

### *Reasons for the 1978 Revision*

According to the *Iowa Criminal and Juvenile Justice Plan, 1993 Update*, “There were several reasons for the 1978 revision in the criminal code. On the national level, a Model Criminal Code was introduced, which some states began customizing for their own jurisdictions. At about the same time, there was a widespread recognition among policy makers in Iowa that our own criminal code was in need of simplification and uniformity. Prior to 1978, Iowa’s criminal code was a hodgepodge of often very specific offenses, each carrying its own penalty. The 1978 revision regrouped offenses under general headings, and then ranked these according to class....Finally, the maximum penalty for each offense class was determined.”

According to the progress reports of the Criminal Code Review Study Committee, it appears that decision makers also used this opportunity to make revisions to conform with various U.S. Supreme Court decisions, conform language to more closely reflect the meaning as determined by Iowa court decisions and interpretations, delete sections that were rendered meaningless by other judicial decisions, and modernize the language.

### *Scope*

The 1978 Iowa Criminal Code Revision was perhaps the most comprehensive revision of any state criminal code. As noted in the December 15, 1971 report of the Iowa Criminal Code Review Study Committee, “Recent experience in other states has indicated that revision of the substantive portions of a criminal code only may require three or more years. Iowa is one of the few states, if not the only state, which has endeavored to comprehensively revise not only its substantive and sentencing laws, but also its criminal procedure laws.”

The following Iowa Code Chapters were written/rewritten as part of the revision: Chapters 701 through 732; Chapter 813 (criminal procedure); Chapters 801-812; Chapters 814-821; Chapters 901-909. Pre-revised and retained chapters included Board of Parole, drunken driving, drugs, Bureau of Criminal Investigation, State Medical Examiner, and criminal history and intelligence data.

The revision was accomplished in four years (1969-1972). The new code was enacted via passage of Senate File 85, Acts of the 66th General Assembly, with an effective date of January 1, 1978.

### *Organization*

The Criminal Code Review Study Committee was created pursuant to Senate Joint Resolution 18. Initial membership included six state representatives, six state senators, two district court judges, two professors, and three other members (attorneys). In

subsequent years, the number of “other” members varied (by the 1972 interim, there were six other members serving on the Committee).

Three Subcommittees were formed, as follows:

- Substantive Criminal Law
- Criminal Procedure
- Sentencing and Postconviction

A fourth Subcommittee had been originally planned, whose purpose was to be coordination and consolidation of the work of the above three Subcommittees. However, this function was largely undertaken by the full Committee as it progressed through the drafts during final review. A three-person Subcommittee was formed, however, to review sections and make recommendations regarding amendment of the many criminal penalties contained in other portions of the *Code* not covered by the work of the three other Subcommittees. This small Subcommittee accomplished its work in two meetings.

### *Staffing*

The Legislative Service Bureau administered the funds for the revision (see next section for funding information). Their typing and Xerox facilities were made available to the drafting staffs. The Bureau also served as the coordinating agency for subcommittee meetings, and prepared the final proposed criminal code in bill form.

Two professors, Ronald Carlson and John Yeager (who were also Committee members), served as the professional drafting staff in charge of preparing revision proposals for Committee approval. They each employed whatever research assistants, secretaries, and typists they deemed necessary to accomplish the work of drafting and revising the proposals. Professor Carlson was assigned to the Criminal Procedure Subcommittee, and Professor Yeager was assigned the Substantive Criminal Law, and Sentencing and Postconviction Subcommittees.

The Association of Trial Lawyers of Iowa were also involved, having formed their own Criminal Code Revision Committee. It is unclear whether or not they were involved in preparation of the preliminary drafts that formed the basis for the first state Subcommittee meetings. Between 1976 and 1978, this organization published a three-volume set, *The New Iowa Criminal Code, A Comparison*. In the preface of the first volume, the involvement of the Association in the criminal code revision was summarized as follows: “Their thoughts and ideas were given to the Legislature and often time were used in the final passage of the new Iowa Criminal Code.” The Association also held a two-day symposium on the new code in November, 1977.

### *Funding*

The Iowa Crime Commission obtained a federal grant of \$5,000 for the planning phase of the criminal code revision project, conducted during the 1969 interim. The funds were

made available through the Omnibus Crime Control and Safe Streets Act of 1968. *At least* two additional grants, each in the amount of \$50,000, were applied for and presumably obtained for the project through January 1, 1973 (it may be that funding in the amount of \$50,000 was provided for *each year* of work, totaling *three* grants of presumably \$50,000 each). Matching funds were required in the proportion of 60% federal funds, 40% state funds.

### *Summary of Work Accomplished*

The first meetings of the Criminal Procedure Subcommittee and the Substantive Criminal Law Subcommittee involved reviewing preliminary proposed drafts prepared by the professors. Other than the professors, it is unclear who else may have been involved in preparation of these preliminary drafts. It is also unknown how long it took to write these drafts, and if federal funds were expended for this work.

According to various current and former state officials involved in the revision, a great many people were invited to participate in Subcommittee meetings to express their views and provide input.

Substantive Criminal Law Subcommittee. This Subcommittee created the current felony and misdemeanor offense class levels. Work also included reviewing and revising crime definitions and penalties. Some crimes were eliminated (such as treason against the state and consensual sex acts between adults). As of the 1970 interim, this Subcommittee had held 19 meetings, obtaining tentative approval of 26 chapters of the proposed substantive revision. One additional meeting was held in 1971 to review and approve the fourth and final draft, which was accomplished.

Criminal Procedure Subcommittee. This Subcommittee worked on issues such as search and seizure, arrest, charging, evidence gathering, and rules governing criminal trials. As of the 1970 interim, this Subcommittee had held 6 meetings, and reviewed in whole or in part 17 chapters of the proposed criminal procedure revision. The Subcommittee met four times during the 1971 interim, three of which were two-day meetings. It accomplished its review of the 156-page draft divided into 22 divisions by assigning portions to a “reader”, whose expertise would permit him to provide good discussion leadership as well as make constructive suggestions for revision. In all, there were six “readers”, of whom four were judges, one was a county attorney, and one other attorney. Work included the compilation of “revisers notes” to be used by the legislature and courts in determining the reasons and authority for particular sections. Following this process, the drafter completed a revised draft by the end of the calendar year.

Sentencing and Postconviction Subcommittee. This Subcommittee established the system of indeterminate sentencing that remains largely intact today, and was responsible for writing portions of the draft having to do with conviction, sentence, probation and parole. It also apparently established penalties for each offense class defined by the Substantive Criminal Law Subcommittee. As of the 1970 interim, this Subcommittee had met twice, with discussion centering on alternatives to the makeup, practices and

procedures of the Iowa Board of Parole. They also spoke with corrections officials and toured four prisons for the purpose of becoming familiar with corrections programs and procedures. During the 1971 interim, the Subcommittee met six or seven times. They conferred with two sentencing experts, one from the National Council on Crime and Delinquency, and the other from the University of Virginia Law School. Iowa justice system officials also provided input. The Subcommittee met once during the 1972 interim to finalize its work.

Criminal Code Review Study Committee. The Committee completed its work during the 1972 interim. The full Committee met twice during the 1969 interim (to form subcommittees, discuss funding and make other organizational decisions). The Committee met once during the 1970 interim (to review Subcommittee work, discuss Committee membership issues with regard to the election, and resolve budgetary issues). A total of 12 meetings were held during the 1971 interim, when the bulk of the Subcommittee work was accomplished and reviewed by the full Committee. During the final interim (1972), 20 meetings were held (nine focused on approval of the Substantive Criminal Law Subcommittee draft; two were devoted to final requests for reconsideration by Committee members; the remaining meetings were devoted to review of the drafts of the other Subcommittees).